

REPORT TO:		Cabinet	
DATE:		21 June 2023	
PORTFOLIO:		Cllr Mohammed Younis – Levelling Up	
REPORT AUTHOR:		Steve Riley – Executive Director (Environment)	
TITLE OF REPORT:		Authorisation for making of CPO for Market Chambers	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Yes	Appendix D Exempt	
KEY DECISION:	Yes	If yes, date of publication:	23 May 2023

1. Purpose of Report

- 1.1 To update Cabinet on progress to date with the acquisition of interests in the Market Chambers intervention within the Council's Levelling Up Funding (**LUF**) programme.
- 1.2. To invite Cabinet to authorise the making of a Compulsory Purchase Order (**CPO**) under Section 226(1)(a) of the Town and Country Planning Act 1990 to acquire compulsorily land, existing rights and interests at Market Chambers where agreement cannot be reached in order to deliver the comprehensive 'Accrington Acre' redevelopment which was the subject of the LUF submission.
- 1.3. The proposed order lands are shown in the draft CPO plan attached to this report at Appendix C, edged in red.
- 1.4. This report also seeks approval for the Executive Director (Environment), following consultation with the Executive Director (Legal & Democratic Services) to agree compensation and acquisition payments where this will avoid the need to compulsorily purchase interests.

2. Recommendations

- 2.1 Having concluded that the acquisition of all interests at Market Chambers (43-59 Blackburn Road / 2- 4 Church Street) will facilitate the redevelopment and improvement of the 'Accrington Acre' within the approved strategic Town Centre Investment Plan (**TCIP**) and that such a redevelopment is likely to contribute to the achievement of any one or more of the following objectives:

- The promotion or improvement of the economic well-being of the area

- The promotion or improvement of the social well-being of the area
- The promotion or improvement of the environmental well-being of the area

Cabinet resolves to take all necessary steps to make and secure the confirmation and implementation of a Compulsory Purchase Order (**CPO**) to acquire compulsorily all or part of the land shown coloured pink and edged red on the plan (**Order Land**) attached at Appendix C entitled Map referred to in the Hyndburn Borough Council (Market Chambers) Compulsory Purchase Order 2023 (the **CPO Map**), together with all rights and interests affecting that land (which may be extinguished or overridden) in order to enable the implementation of the second intervention forming part of the 'Accrington Acre' redevelopment. Those steps include the publication and service of all notices and the presentation of the Council's case at any public inquiry if required.

- 2.2 That Cabinet resolves to delegate authority to the Executive Director (Environment), following consultation with the Executive Director (Legal & Democratic Services):
- to finalise the wording of the CPO and the Statement of Reasons and to make any final adjustments as may be necessary to reduce the boundaries of the CPO Map and take all steps necessary to make and confirm the CPO;
 - to take all steps to seek to acquire any or all of the necessary interests in the Order Land by agreement or by utilising and implementing any confirmed compulsory acquisition powers;
 - to negotiate and agree the terms of such acquisitions, settle claims for compensation and to enter into such agreements or deeds necessary for the acquisition of all or part of the Order Land;
 - that if the Secretary of State authorises the Council to do so, confirm any CPO made.
- 2.3 That Cabinet resolves to utilise, where appropriate, either the general vesting declaration procedure under the Compulsory Purchase (Vesting Declarations) Act 1981 or the notice to treat procedure under Section 5 of the Compulsory Purchase Act 1965 in respect of the confirmed CPO.
- 2.4 That Cabinet agrees, under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of land where the Council is satisfied that it has not been possible following the making of reasonable inquiry to establish ownership of the land in question and for the service of notices in the manner set out in Section 6(4) of the Acquisition of Land Act 1981.
- 2.5 That Cabinet confirms that, in agreeing to recommendations 0 – 2.4 above, Cabinet has considered the provisions of the Human Rights Act 1998 so far as they might be applicable in deciding whether or not to make the CPO and all other statutory powers that the Council seeks to exercise and resolves the following:
- With regard to Article 8 it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the community of proceeding with the CPO, the making of the CPO resulting in the interference with

the individuals rights is justified in the interests of improving the economic, environmental and social well-being of the 'Accrington Acre' and wider town centre.

- With regard to Article 1 Protocol 1, it is considered that the interference with the individual's property is justified by the advantages accruing to the public by proceeding with the redevelopment of the 'Accrington Acre' particularly taking into account the fact that there is a legal right to compensation for the property taken and any rights extinguished under the CPO.

2.6 Cabinet confirms that, in agreeing to recommendations 0 – 2.5 above, Cabinet has had due regard to the Equality Act 2010.

3. Reasons for Recommendations and Background

3.1 Background and the need for the redevelopment

3.1.1 The National Planning Policy Framework (**NPPF**), the Council's Local Plan and Accrington Area Action Plan recognise the need for town centres to accommodate a greater diversity of main town centre uses in order to remain vibrant places for people to visit. Although the focus of the town centre uses will remain comparison goods shopping, it is increasingly recognised that the retail market is undergoing significant changes as a result of the growth of online shopping and other factors and that, in order to remain competitive, town centres need to offer a greater range of services and facilities. Prime amongst these are the growing leisure sectors, flexible working spaces and the increasing demand for restaurants. As detailed below, the proposed redevelopment will strengthen the town centre's offering in respect of these growing sectors.

3.1.2 Over the past two years the Council has been working with a very experienced consultant and stakeholders to deliver a Town Centre Investment Plan (**TCIP**) to regenerate Accrington town centre. An expression of interest process was run between June and September 2021 seeking ideas for possible TCIP interventions. To assess potential schemes put forward, a rigorous and evidence-led assessment process was established which was based on the HM Treasury 'Five Case Model'. More than 30 schemes were put forward to the stakeholder Board with 18 - at various stages of development and detail - being included within the final agreed TCIP. These together make up the Accrington Acre redevelopment.

3.1.3 In creating this TCIP, the Council has engaged regularly with the Accrington Town Centre Stakeholder Group and the Accrington Town Centre Partnership Board which represent a diverse range of local sectors and interests. Survation, a government approved polling organisation was also engaged to undertake representative polling of Hyndburn residents between the 10th and 23rd of August 2021 and all town centre businesses/property owners were asked for their ideas/comments.

3.1.4 The Council's agreed TCIP sets out potential investments totalling around £70m which will radically transform Accrington's prospects for the future and improve the lives and

opportunities of local residents. It is important to note that the TCIP builds on more than £55m of public and private investment already invested locally since 2010.

- 3.1.5 A number of common themes were highlighted during the public/stakeholder engagement process: a lack of choice and need for an improved and diversified retail offer (especially for eating and drinking), to see a reduction in the number of empty shops and other empty commercial premises and increase visitor and tourist numbers, (footfall) in the town centre. Certain interventions within the TCIP are aimed at addressing these issues.
- 3.1.6 The Levelling Up Fund was announced at the 2020 Spending Review and its focus is to provide capital investment in local infrastructure projects that require up to £20m of funding and builds on prior programmes such as the 'Local Growth Fund' and 'Towns Fund'.
- 3.1.7 On 16 March 2022 Cabinet gave its formal approval in support of the Council's TCIP and the LUF submission.
- 3.1.8 Cabinet will be aware that the LUF submission included proposals to implement the three principal interventions set out below which meet the LUF funding criteria and therefore offered the best opportunity to the Council in securing LUF funding:
- Redevelopment of the Indoor Market Hall and outdoor pavilions along Peel Street, Accrington to provide a new food and beverage 'street food' style eating, drinking and social meeting space – the intervention known as Market Hall;
 - Improvements and redevelopment to the properties of 43-59 Blackburn Road / 2-4 Church Street, Accrington to provide an exciting new dedicated arts, heritage and culture hub – the intervention known as Market Chambers; and
 - Improvements and redevelopment to the block 61-79 Blackburn Road, Accrington to offer 3 floors of communal workspaces / offices – the intervention known as Burtons Chambers.
- 3.1.9 Cabinet previously supported the appointment of CBRE, who are a nationally recognised property services consultant, to undertake acquisition discussions on behalf of the Council. CBRE have been in regular discussions with the owners of Burtons Chambers and Market Chambers throughout 2022 and into 2023.
- 3.1.10 CBRE submitted heads of terms to the owners of the various interests in Burtons Chambers and Market Chambers who have entered into a dialogue with a view to enabling the Council to acquire these by agreement.
- 3.1.11 In respect of Burtons Chambers, the Council successfully acquired the freehold interest by agreement in February 2023. Given the different interests in Burtons Chambers however, authorisation was then sought in March 2023 to promote a Compulsory Purchase Order to acquire the outstanding interests in Burtons Chambers if private treaty negotiations fail, in order to ensure that all of the necessary interests can be acquired to bring forward the interventions in a timely manner. That authorisation was approved, and so the intervention at Burtons Chambers is not considered further in this

report, except where specifically relevant to the intervention at Market Chambers.

- 3.1.12 The Market Hall is within the Council's ownership and the Council remains of the view that the lease agreements with current traders would enable the Council to secure vacant possession to allow redevelopment of the Market Hall from 2024. However, there are three leases that would endure beyond December 2023. A dialogue is ongoing with one of the parties to agree a compensation figure for surrendering the leases and the other two traders are requesting more clarity on where they are to be decanted and when they will be located after the redevelopment. Dialogue is ongoing and the Council hopes to resolve any outstanding issues over the coming months.
- 3.1.13 Progress has been and continues to be made for the acquisition of interests in Market Chambers, but on the basis of discussions to date, it appears unlikely that agreement will be reached in a reasonable timeframe to secure all interests.
- 3.1.14 Compulsory purchase will be required if private treaty negotiations fail, and given the different interests it may not be possible to reach agreement with all of the parties with an interest in the Order Land in the timescale required for delivery. Authorisation is therefore being sought to promote a CPO in parallel with negotiations to acquire the necessary interests in order to ensure that the interventions come forward in a timely manner.
- 3.1.15 Hyndburn is the 16th most deprived of 317 local authorities in England, according to the 2019 Index of Multiple Deprivation. Deprivation in the area has deteriorated over the last 15 years (58th most deprived in 2004). Deprivation levels in Accrington are worse than the Hyndburn average, with five of its six wards amongst the 5% most deprived in England. Neighbouring Central and Spring Hill wards are amongst the 1% most deprived in England. Deprivation in employment and income domains are especially poor.
- 3.1.16 Economic inactivity is high - an estimated 26% in Hyndburn and 33% in Accrington, compared to 21% nationally. For locals in full time work the average weekly wage is £471.50, around 16% below the North West and 20% below the national average.
- 3.1.17 Accrington remains heavily dependent on physical retail with the retail sector accounting for around one quarter of all jobs in the local economy (vs 15% nationally). There is an oversupply of retail space which has not fallen in line with the fall in demand for physical retail. There are 3.7 square metres of retail space per resident in Accrington compared to 2.5 in Hyndburn and 1.8 in England (VOA non-domestic rating: stock of properties 2021).
- 3.1.18 The lack of vibrancy reflects/creates a lack of a food and drink offer, with only 5% of jobs in Accrington in the Accommodation and Food Services sector (versus 7% nationally). 59% of Hyndburn's residents rate Accrington's restaurants and cafes as poor. Only 15% rate it a good place to visit (representative Survation polling, summer 2021).
- 3.1.19 The historic Victorian Market Hall is the jewel in Accrington's heritage crown and one of the largest market halls of its kind still in existence. However footfall and trader

occupancy levels at the Market Hall have fallen over the past three decades and it is no longer fit for modern needs, contributing to the oversupply of retail and low-end uses. Half of the Market Hall's ground floor stall pitches are unlet. The proposed intervention for the Market Hall would repair the existing fabric of this listed building, improve its security and refurbish and transform half the market into a food and drink destination that is attractive to locals (50% rarely or never come to Accrington) and those within a c.45 minutes travel distance (2.7m people with £30+bn disposable income). More visitors means more footfall for the town's struggling shops. The town's existing retail and food and drink offer (and visitor offer more generally) is considered poor by Hyndburn's residents and those beyond. As part of the Market Hall intervention, it is proposed that one or possibly two of the large, under-used pavilions will be demolished to make way for better visibility of the Market Hall, additional car parking or a high-quality green public realm/possible outdoor eating provision and a reduction in retail space to assist with the area's substantial oversupply of retail provision. The Market Hall would diversify the town away from retail and provide a reason to visit, whilst visibly improving Accrington Town Square. In addition, works would be undertaken to ensure the improved energy efficiency of the building, including improved insulation, the provision of smarter heating and the installation of solar power. The redevelopment of the facility is one of the key objectives in the Council's TCIP.

- 3.1.20 Burtons Chambers is an important Art Deco Building situated immediately opposite the Town Hall, but it is largely vacant and derelict and has fallen into substantial disrepair. The Council's intervention for Burtons Chambers would restore and transform the building into a co-working space for working, with visible activity reducing crime and providing stable weekday daytime and evening demand for the new Market Hall offer and space for local entrepreneurs and small/ medium enterprises to grow.
- 3.1.21 Market Chambers is the third piece of the puzzle which has large parts of it vacant and in general is a dilapidated building, in need of major repairs (including roof and exterior) and refurbishment. The negative externality of vacant premises, the poor exterior condition and visually displeasing aesthetic (as a result of the unsympathetic assortment of shop fronts) of these key building facades are felt acutely in the town centre and reinforce existing negative resident/ visitor perceptions and contribute to a spiral of decline. They also contribute to crime, anti-social behaviour and drug use especially. Market Chambers' disjointed use stems in part from a coordination failure with the building in multiple ownership. The Council's intervention will repair the building and refurbish units to a modern standard with a consistent look. The building will provide a new cultural, arts and heritage space, diversifying the town centre, boosting pride and addressing the local cultural 'deprivation'. This building will also provide additional demand for the new Market Hall food and drink offering.
- 3.1.22 Historic buildings generally confer a positive externality, including amenity value, meaning not all the benefits from private investment in them are captured by the asset value. They have attributes that are non-excludable and non-rival in consumption – in other words they are public goods. This can mean a lack of private investment in historic buildings. The proposed interventions in these landmark buildings on Accrington's Town Square have been carefully selected to promote heritage-led regeneration of the town centre and attract visitors in, as well as make it attractive for small businesses to locate their offices there, bolstering aggregate demand in the town's economy, as well as

creating entry level job opportunities for inactive local residents. Greater footfall and increased natural surveillance could also contribute to reducing crime and anti-social behaviour at the heart of town. Investment in these catalytic projects is designed to create a critical mass of complementary uses on Accrington Town Square.

- 3.1.23 Achieving the vision for the future of Accrington Town Centre requires a coherent package of interventions right across the town. The interventions set out within the TCIP - whether delivered by the Council or third parties - will improve the quality of life and experience of the town for residents and, at the same time, boost visitor numbers and help create a thriving visitor economy. Creating the Accrington Acre by transforming the area around the Town Square and nearby architectural highlights into the town's 'anchor' and central food, drink, shopping and leisure hub and establishing a range of specialist markets to cater to the people of Accrington and visitors alike.
- 3.1.24 Residents of Accrington are most likely to benefit from job opportunities and other outcomes induced. There will be some benefit to those in the wider Travel To Work Area – in addition to Accrington it encompasses Blackburn, Darwen and Rossendale (all outside of Hyndburn). Census 2011 data showed c.3,000 commuter inflows to Hyndburn from Blackburn and Darwen. This is relatively low in comparison to 35,000 people working in Hyndburn suggesting modest 'beyond-borough' impacts.
- 3.1.25 The recommendations are brought forward in order to progress the comprehensive redevelopment of the 'Accrington Acre' and contribute to the implementation of the TCIP.
- 3.1.26 If the Accrington Acre redevelopment does not take place, then not only would the area continue to decline and have an increasing negative impact on the town centre as a whole, but it would not benefit from the investment needed for it to become a vibrant and competitive centre able to meet the changing needs of the public.
- 3.1.27 Making the CPO is the most realistic option available to the Council to acquire all the interests necessary to facilitate the proposed redevelopment of the Order Land within the funding timescales if sale by agreement is not achieved. Compulsory purchase processes are fair and reasonable, providing those affected with the opportunity to object and providing the statutory framework for compensation, with a process for disputed compensation claims to be settled by the Upper Tribunal of the Lands Chamber if required.

3.2 Timescale for delivery

- 3.2.1 The acquisition of Market Chambers and some initial improvement/repair works funded through the LUF has to be completed by April 2025. Negotiations will continue with both the freehold owners and the tenants in parallel to achieve sale by agreement but the Council may ultimately need use the CPO process to seek to acquire the interests by April 2025 and so need to have the necessary approvals in place to commence this if needed.
- 3.2.2 It is essential for the success of the redevelopment of Accrington Acre for Market Chambers to be redeveloped and operational as soon as practicable to support the

opening of the redeveloped Burtons Chambers and Market Hall. Together, these 3 interventions will act as a catalyst for the regeneration of the Accrington Acre.

3.3 Appointment of preferred developer and partner/operator

- 3.3.1 On 13 July 2022 Cabinet noted the procurement strategy produced by MAC construction consultants and supported in principal the preferred procurement route and preferred framework to undertake the intervention redevelopment works at Burtons Chambers and Market Hall. Prior Information Notices (**PIN**) were posted in June 2022 to inform the market of potential operator opportunities. Soft Market Testing (**SMT**) has also been undertaken in September 2022 and further work undertaken during May 2023. The purpose of this was to gain intelligence on the supply market and to fully understand their capabilities and appetite for the Council's requirements, including information that would help define the most appropriate structure, plan and budget for any potential competitive procurement exercise.
- 3.3.2 The Council has procured initial advice on the various operator / partner / joint venture agreement models from its legal advisors Womble Bond Dickinson and further advice from consultants with a greater degree of experience around provision of shared workspaces and market offerings through CBRE and Barker Proud Love accordingly. Following this further work the Council will be commencing the operator tender exercise in June 2023 which is estimated to be completed in approximately 3-4 months, allowing the preferred operator to input into the final designs ahead of works commencing in 2024.
- 3.3.3 Further funding to complete the redevelopment is being sought through a £5 million National Lottery Heritage Fund funding bid which will be submitted in August 2023 and if successful, part of the development stage work will be the identification of an operator through a similar process used for Burtons Chambers and the Market Hall.

3.4 Land assembly and obtaining clean title to the land

- 3.4.1 The land to be included in the proposed CPO is shown coloured pink and edged in red (referred to as the Order Land throughout this report). The total area of land to be compulsorily acquired is approximately 1,937 sqm.

3.5 Description of the Order Land

- 3.5.1 The Order Land is located in an area known as Accrington Acre which is located in the Barnfield ward. If private treaty discussions fail, the extent of the proposed Order Land required for compulsory acquisition will include (in whole or in part) 43-59 Blackburn Road / 2- 4 Church Street, Accrington (referred to in this report as Market Chambers).

3.6 Description of interests in the Order Land

- 3.6.1 Market Chambers is a three and five storey terrace premises (including rear back street) comprising both seven commercial and eighteen residential units. Three of the commercial units spanning multiple floors are vacant and five of the eighteen residential units are unoccupied. The property is held by four separate freehold owners and one

long leasehold owner. One leaseholder has a 999 year lease of the ground and basement floor and mezzanine first floor of 49 -51 Blackburn Road which is let to a tenant on a 10 year lease expiring in June 2024. There are no break rights and the tenant's lease benefits from security of tenure.

- 3.6.2 The Council is working with all occupiers and tenants so that they can relocate in advance of the property being required for redevelopment. The town centre has many vacant retail units and with sufficient time and resource the businesses will have the opportunity to relocate within the town should they desire to do so. The occupiers of the residential units are all understood to be let on assured shorthold tenancy agreements. The Council will work with the landlords for these interests and provide the support that is necessary and reflecting any particular needs of the residents to assist in finding alternative accommodation.
- 3.6.3 The interests to be acquired in the Order Lands can be seen in the draft CPO Schedule provided as Appendix D (Exempt).
- 3.6.4 In order to ensure that the regeneration of the area and redevelopment can take place, the Council needs to acquire all of the interests in the Order Land. If agreement cannot be reached voluntarily in a timely manner with those with an interest in the Order Land, it will be necessary for the Council to compulsorily acquire the Order Land.
- 3.6.5 Cabinet is therefore asked to authorise the compulsory purchase of the Order Land. The purpose of the CPO would be to allow delivery of the redevelopment of Market Chambers, which is one of the three interventions identified as part of the comprehensive Accrington Acre redevelopment and to ensure clean title to land can be transferred to the Council and any developer in a timely manner, free of encumbrances which could otherwise prevent or delay development. The CPO is also necessary to ensure site assembly in a timely manner.

3.7 The need for a Compulsory Purchase Order

- 3.7.1 The statutory authority for compulsory acquisition is contained within Part IX of the Town and Country Planning Act 1990 (**the 1990 Act**). Section 226 (1)(a) of the 1990 Act empowers local authorities, on being authorised by the Secretary of State, to acquire land compulsorily if they think that the acquisition will facilitate the carrying out of development, redevelopment or improvement of the land. In addition, the Accrington Acre redevelopment would contribute to the promotion of the environmental, social and economic well-being of the Council's area, in accordance with Section 226(1A) of the 1990 Act because:
- the redevelopment will contribute to and enhance the role of Accrington town centre by promoting a mixed use of retail, office and leisure redevelopment in an area that needs investment. It will create permanent jobs, in addition to those temporary jobs required during the construction period which will be available to the local labour market;
 - the redevelopment will provide a high quality retail, co-working office space and leisure mixed use development to serve the needs of the local community and

visitors to the area.

- 3.7.2 Support for the redevelopment of Market Chambers was highlighted through the polling and public consultation when developing the TCIP. Further polling and stakeholder consultation has been undertaken for the National Lottery Heritage Fund submission during April/May 2023, which again highlighted strong support for the creation of a Culture and Heritage centre. The proposed usage for the building has the support of the Culture Heritage and Investment Panel and the Town Centre Stakeholder Board has made a recommendation to the Council for the funding submission.
- 3.7.3 Members should note that a CPO can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order. On the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made and consider the contribution to the economic environmental and social well-being of those who live work and visit the area which will be made by the redevelopment. Officers have carried out this assessment and are of the view that as a result of the economic environmental and social well-being benefits arising from this redevelopment there is a compelling case in the public interest for the making of the CPO.

3.8 Details of attempts to acquire interests by agreement

- 3.8.1 In late 2021, the Council appointed expert property consultants CBRE to develop and produce an acquisition and engagement strategy for Burtons Chambers and Market Chambers as part of the Council's plans for the regeneration of Accrington Town Centre. Throughout 2022, Cabinet has supported the work of CBRE engaging with the owners on a monthly, sometimes weekly basis and includes dialogue through email/letter and phone. Approaches have also been made to all the holders of leasehold interests in and occupiers of the Order Land.
- 3.8.2 This activity has resulted in terms being agreed with two freehold owners and the long leasehold owner. All are currently progressing with solicitors. Whilst one property is vacant the other includes six of the residential units. The Council is actively supporting rehousing of tenants where required and it is anticipated that the property will be acquired with vacant possession. An option to purchase the long leasehold is in place and when triggered will make the Council the immediate landlord until the tenant's lease expiry in June 2024.
- 3.8.3 The Council considers that having approval for making a CPO would be prudent to allow for all interests to be acquired in a timely manner should it not be possible to acquire the remaining interests in the Order Land by agreement. This will then allow the redevelopment of Market Chambers to support the redevelopment of Burtons Chambers and Market Hall in bringing forward the wider redevelopment of Accrington Acre.
- 3.8.4 In promoting a compulsory purchase order, acquiring authorities should have regard to Government guidance. The relevant Government guidance is the Department for Levelling Up, Housing and Communities 'Guidance on Compulsory purchase process

and The Crichel Down Rules' which was updated in July 2019 (the **Guidance**). Matters which must be addressed are:

- authorities should seek to acquire interests by negotiation where practicable;
- there must be a compelling case in the public interest;
- there must be a clear idea of how the Council intends to use the land and that the necessary resources are likely to be available to achieve that end within a reasonable timescale;
- full details for the funding of the redevelopment are required including timing;
- there must be a reasonable prospect of the redevelopment proceeding and be unlikely to be blocked by impediments to implementation;
- a CPO can only be made if there is a compelling case in the public interest and that the purposes for the making of the order should sufficiently justify interfering with the human rights of those with an interest in the Order Land;
- on the basis of the assessment carried out by the Council it must consider that a compelling case exists before a decision is made. Officers have carried out this assessment and are of the view that there is a compelling case in the public interest for the making of the CPO and interfering with the human rights of those affected by the redevelopment in the event that the private treaty negotiations fail;
- in accordance with the advice contained within the Guidance the Council has had careful regard to:-
 - a) the adopted Local Plan, the draft Local Plan and the National Planning Policy Framework;
 - b) the extent to which the redevelopment would comply with the Council's statutory requirements to satisfy the well-being test;
 - c) the financial viability of the redevelopment;
 - d) whether the acquisition could be achieved by any other means and the redevelopment would not be blocked by planning problems, that there is a degree of certainty that the redevelopment will proceed and that the land comprising the Order Land is required in order to secure the carrying out of the proposed development, in accordance with section 226(1)(a) of the 1990 Act.

3.8.5 Single unencumbered ownership of the Order Land is required to enable the developments to proceed. Compulsory purchase will enable redevelopment to take place at an early date by providing certainty for site assembly and programming and thus enable the Council's policy objectives for the area to be achieved.

3.8.6 The Council through CBRE and its appointed agents has attempted, and will continue to attempt, to purchase outstanding interests by agreement. Discussions have taken place and are continuing with those affected by the proposals. However, whilst the Council has agreed in principle sale by agreement with 3 of the 4 freeholders and the holder of the long leasehold interest, it is not in a position to ensure that it can obtain vacant possession of the whole of the site.

3.8.7 Some of the CPO land is in unknown ownership, and the Council will accordingly invoke

the process under Section 6(4) the Acquisition of Land Act 1981 to notify unknown owners including the posting of site notices.

3.9 Planning

3.9.1 The planning position is considered in a report prepared by LDA at Appendix B.

3.10 Funding

3.10.1 The Council's £20 million LUF funding submission has been successful (as confirmed in January 2023 and first payment from DLUHC to the Council was received on 25th May 2023) and provides for full redevelopment of Burtons Chambers and the Market Hall plus acquisition and some initial roof and façade works to Market Chambers. In addition, further funding of £1.5 million from Lancashire County Council and £2 million from Hyndburn Council is allocated. A further £2 million LUF contingency reserve has been created by the Council.

3.10.2 The LUF funding bid included all acquisition costs for sale by agreement or through CPO, including any compensation payments required. The bid also included higher than normal project delivery costs around inflation, risk, contingencies etc.

3.10.3 Two further Expression of Interest submissions to the value of £5 million each have been submitted to funders which will complete the remaining redevelopment of Market Chambers. The submission to the National Lottery Heritage Fund has now progressed to the Development Stage which will be submitted by 17 August 2023 and a decision announced by December 2023.

4.0 Alternative Options considered and Reasons for Rejection

4.1 The Council's preference is to acquire the Order Land by agreement with those with an interest in the Order Land. However, this cannot be guaranteed and therefore a CPO would be needed where agreement cannot be reached in a timely manner.

5.0 Consultations

5.1 The High Street Task Force (**HSTF**) delivered an expert's support workshop with the Council and a small number of business stakeholders in February 2020. This looked at progressing the recommendations from the Unlocking Your Place Potential diagnostic visit the Council received through the Future High Streets.

5.2 Experts from the Design Council, facilitated two meetings with a new Town Centre Stakeholder Group in March 2021 around unlocking projects and creating a town centre vision. This was followed by HSTF appointed experts facilitating two meetings with the stakeholder group in April and May 2021, around partnership development. The stakeholder group came together for further update meetings in July and September and more recently in August 2022.

- 5.3 Survation, a government recognised independent polling and market research agency undertook the polling of 500 residents aged 18+ living in the Borough during August 2021. The questions looked at how residents view the town centre, how often they visited, what would make them visit the town centre etc. This information helped the stakeholders and board understand the needs and priorities when considering all town centre interventions.
- 5.4 A small strategic board was formed from members within the Town Centre Stakeholder Group, with the remit to make strategic recommendations to the Council. This board came together on five occasions in September, November and December 2021 to agree a town centre vision and to discuss / make recommendations on the TCIP and the LUF funding bid.
- 5.5 A public consultation exercise was undertaken on the proposed TCIP between 11 January and 4 February 2022 which was extended for a further week following requests from residents and town centre businesses.
- 5.6 There have been numerous reports to Cabinet and Council updating members on the TCIP and LUF submission with Councillors having three further briefings during 2021/22.
- 5.7 CBRE have held extensive discussions with property owners throughout 2022 and will continue to seek, where possible, purchase by agreement.
- 5.8 The Leader of the Council, the Council's Chief Executive, Executive Director (Legal and Democratic Services) and the Council's Legal Services Manager have been consulted on the use of CPOs.
- 5.9 Further stakeholder consultations during May/June 2023 have been undertaken with interested groups to better understand usage/layouts which will be incorporated into the Council's National Lottery Heritage Funding submission in August.

6. Implications

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>Cabinet should note that any acquisition of buildings would expose the Council to additional building maintenance, business rates and other associated landlord management costs. Whilst the majority of any ownership / landlord short term costs incurred during the redevelopment could be incorporated within the LUF funding bid, if the Council's long term strategic plan was for any building to remain in the Council's ownership, the Council would need to create a suitable revenue maintenance budget and staffing structure to manage the buildings.</p>
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	<p>As a matter of general principle all costs associated with pursuing a CPO will be met by the Acquiring Authority. These would include:</p> <ul style="list-style-type: none"> • time spent by Council staff and consultants in progressing the CPO; • legal costs of the Council (including any time spent by external counsel and legal advisers); • other relevant CPO related costs, including all costs, fees and expenses relating to any public inquiry in respect of the CPO: • payment, to include costs and disturbance payments, to all affected landowners, lessees or tenants which arise from the CPO and are a natural and reasonable consequence of the interests being acquired; and • compensation payments for any statutory nuisance, severance, injurious affection, interference with, disposal or acquisition of rights or interests, which flow as a consequence of the redevelopment. <p>Once the CPO is made and implemented the Council will be liable to meet statutory compensation claims. These risks have been mitigated by being allocated funding within the successful LUF funding bid.</p>
<p>Legal and human rights implications</p>	<p>As made clear in the Guidance (Guidance on compulsory purchase process and The Critel Down Rules), a CPO should only be made if there is a compelling case in the public interest. The Council as acquiring authority should also be sure that the purposes for which the CPO is made justify interfering with the human rights of those with an interest in the land affected and are proportionate.</p> <p>The Council will need to consider the Human Rights implications of a CPO:</p> <p>a) The Human Rights Act 1998 incorporated the European Convention on Human Rights (the Convention) into domestic</p>

law and continues to be relevant. The convention includes provision in the form of Articles, the aim of which is to protect the rights and freedoms of the individuals (including companies). The main articles of the Convention which are of importance in circumstances where the Council is considering making a CPO are Article 8 and Article 1 of the First Protocol.

- b) Article 1 of the First Protocol protects the right of everyone to a peaceful enjoyment of their possessions. No-one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and the general principals of international law.
- c) The European Court of Human Rights has recognised in the context of Article 1 that regard must be had to a fair balance which has to be struck between the competing interests of the individual and of the community as a whole. In this case any interference is considered to be proportionate and justified in the public interest to secure the development and the improvements which would follow from any development with the regeneration of the area.
- d) The compulsory purchase process includes a statutory objection and inquiry procedure. The statutory procedure also provides for the payment of compensation where certain interests in the affected land have been lost.

The Council is aware of eighteen private rented flats within Market Chambers the Council has committed to working with the relevant property owners/landlords to providing advice and support in rehoming these tenants into other suitable properties within the private rental market or social housing market.

Agreement for sale has been reached with the building owner which incorporates six of the flats and final completion is compliant on providing vacant possession to the Council.

Article 8 is clarified below:

Article 8(1) provides that everyone has the right to respect for his/her home but Article 8(2) allows the State to restrict the rights to respect for the home to the extent necessary in a democratic society and for certain listed public interest purposes for example; public safety, economic wellbeing, protection of health and protection of the rights of others.

When considering Article 8 in the context of a CPO the Council needs to ask the following questions:

Firstly, does a right protected by Article 8 apply – to which the answer is "yes".

Secondly, has an interference with that right taken place or will take place as a result of the compulsory purchase being made - to which the answer is again "yes".

The answers to these two questions being in the affirmative confirms that Article 8 applies and it is therefore necessary to consider the possible justifications for the interference under Article 8(2). There are 3 questions for the Council to consider:

Firstly, is the interference in accordance with the law? The answer is "yes", there being a legal basis for making the CPO under Section 226(1) (a) of the 1990 Act.

Secondly, does the interference pursue a legitimate aim? The justification for the CPO is that the redevelopment seeks to improve the economic, environmental and social well-being of the centre of Accrington in the public interest.

	<p>Thirdly, is the interference necessary in a democratic society? Here the Council must make a balancing judgment between the public interest and the rights of the individual – the CPO must be both necessary and proportionate.</p> <p>In this matter it is considered that in balancing the rights of the individuals who are affected by the CPO against the benefit to the wider public, economic and social well-being of local residents, visitors and stakeholders of proceeding with the CPO, the making of the CPO and the interference with the individuals rights is justified in the interests of the community in order to effect the improvements.</p> <p>In order to compulsorily acquire land the Council must have a relevant statutory power. In order to rely on the powers in Section 226(1)(a) of the 1990 Act, the Council will need to be satisfied that the proposals are likely to contribute to the achievement of any one or more of the economic, social or environmental well-being of the Borough or part of the Borough. Please see earlier in the report with regard to the justification.</p>
<p>Assessment of risk</p>	<p>The Levelling Up fund spending timescales are extremely tight. The bid criteria requires some capital spending to be made in the financial year 2022/23, but all spending has to be completed by 31 March 2025. Whilst there is the possibility this could be extended to 2026, it will be at the funder’s discretion and only in exceptional circumstances.</p> <p>There is a risk of not delivering the interventions within the LUF timescales if the Council is unable to secure the Order Land. The Council is therefore promoting the CPO to provide certainty that the Order Land will be within the Council's control.</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy</i></p>	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of</p>

<p><i>decisions and should be attached as an appendix to the report.</i></p>	<p>the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation; and • advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and • foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. To assist the Council in this regard an Equality Impact Assessment (EqIA) has been undertaken by AECOM and this is attached as Appendix A to this report.</p> <p>Cabinet is advised to consider the EqIA and its obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p>
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**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

LUF and UKSPF Funding and Delivery report to cabinet February 2023

<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2700&Ver=4>

Levelling Up update report to Special Overview and Scrutiny Committee December 2022

<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=323&MId=2762&Ver=4>

Property Acquisition – LUF Interventions report to Cabinet October 2022

<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2697&Ver=4>

Levelling Up Funding bid update report to Cabinet July 2022

<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2695&Ver=4>

Town Centre Investment Plan Report to Cabinet June 2022

<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2694&Ver=4>

Town Centre Investment Plan and Levelling Up Funding Bid Submission March 2022
<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2617&Ver=4>

Town Centre Investment Plan and Levelling Up Funding bid update report to full Council January 2022
<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=130&MId=2603&Ver=4>

Levelling Up Funding Bid update report to Cabinet September 2021
<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=133&MId=2611&Ver=4>